

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

MARTIK SARGSYAN and KRISTINE
SARGSYAN,

Petitioners,

v.

ERIC H. HOLDER, JR., Attorney
General,

Respondent.

No. 08-72040

Agency Nos.
A078-249-396
A078-364-947

ORDER

Filed May 9, 2013

Before: Jerome Farris, John T. Noonan, and
Jay S. Bybee, Circuit Judges.

ORDER

The motion for attorney's fee is DENIED. The government's position was substantially justified.

NOONAN, Circuit Judge, concurring:

I concur because the statute is clear. I regret the result. An able and experienced lawyer who devoted substantial time to aid persons threatened with deportation is denied

remuneration for her services. At the very least, we should be able to postpone a decision on the fees until the conclusion of the case. The EAJA does not work well when it compels a court to cut off compensation of careful and effective advocacy.